

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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SAFESPAN PLATFORM SYSTEMS, INC., et al.,

Plaintiffs,

v.

ORDER  
06-CV-726A

EZ ACCESS, INC., et al.,

Defendants.

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The above-referenced case was referred to Magistrate Judge Hugh B. Scott, pursuant to 28 U.S.C. § 636(b)(1)(B). On September 2, 2010, Magistrate Judge Scott filed a Report and Recommendation, recommending that plaintiff's motion to dismiss defendants' Third Affirmative Defense be held in abeyance pending further motion practice.

The Court has carefully reviewed the Report and Recommendation and notes that subsequent briefing from the parties effectively has rendered the Report and Recommendation a non dispositive decision and order. Accordingly, and since no objections were timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge Scott's Report and Recommendation, plaintiff's motion to dismiss defendants' Third Affirmative Defense is left in abeyance pending further proceedings before Magistrate Judge Scott.

The case is referred back to Magistrate Judge Scott for further proceedings.

SO ORDERED.

*s/ Richard J. Arcara*

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HONORABLE RICHARD J. ARCARA  
UNITED STATES DISTRICT JUDGE

DATED: December 1, 2010